

Overview

Dentons has experienced ERISA, Pensions, and Benefits litigators in a number of its offices across the United States, including Chicago, Dallas, Kansas City, Los Angeles, New Jersey, New York, San Francisco and St. Louis.

Dentons' team of ERISA, Pensions, and Benefits litigators handles significant and complex ERISA and benefits litigation on behalf of plan sponsors, fiduciaries, third-party administrators, insurance companies and others in both class action and individual matters. This experience includes successfully defending excessive plan fee cases and ERISA "stock drop" class action lawsuits involving ESOPs and 401(k) plans. Further accomplishments involve the team's successful representation of clients in health care, disability, and other benefit plan claims matters, and the successful defense of numerous lawsuits brought by trustees of multi-employer pension plans against employers. In addition, we have experience in achieving favorable results for ERISA plan sponsors, fiduciaries and administrators in connection with investigations and litigations initiated by the Employee Benefits Security Administration (EBSA) and the Office of the Solicitor of the United States Department of Labor (DOL).

In addition to the Firm's experience in handling all types of ERISA and other benefits litigation in courts throughout the country, we also represent numerous clients in connection with controversies before the Internal Revenue Service (IRS) and the Pension Benefit Guaranty Corporation (PBGC). We counsel plan sponsors and committees, institutional and individual trustees, and other clients regarding prohibited transactions, exemptions, related excise tax issues, and various ERISA fiduciary standards and issues.

Areas of focus include the following:

- ERISA breach of fiduciary duty
- Defined contribution plan employer stock investments
- Excessive plan fees
- Imprudent investments and diversification
- Cash balance plan design and administration
- Prohibited transactions and exemptions
- DOL audits and investigations
- Welfare benefits (such as severance, medical, and disability)
- Retiree benefits
- Early retirement design flaws and violations
- COBRA and WARN violations
- Securities law violations
- Multiemployer plan withdrawal liability
- Federal discrimination statutes

- State employee benefits law
- ERISA preemption

Representative Experience

- **An "A" rated international company:** Representing in a national class action in which plaintiffs are seeking tens of millions of US dollars in alleged underpayments of lump sum distributions from the company's cash balance pension plan. The case presents complex issues about benefit calculations by cash balance plans and the interaction of ERISA and plan terms, as well as class certification issues. Recently, our team won a major motion to dismiss several new claims plaintiffs raised.
- **Former ERISA plan trustees:** Successfully representing three former trustees of a manufacturing company's 401(k) and Employee Stock Ownership Plans in their defense of an ERISA class action stock drop case brought by beneficiaries of the Plans. After years of litigation, the court recently approved a settlement that was highly favorable to our clients.
- **Mutual insurance company:** Winning a favorable decision in the Seventh Circuit Court of Appeals that affirmed the District Court for the Western District of Wisconsin's dismissal of a US\$100+ million purported class-action lawsuit challenging changes by our client to its retiree medical plan that reduced its costs under the plan. The suit claimed that the retirees had a vested, unalterable right to require the insurance company to pay more of the cost of retirees' medical benefits than the insurance company felt it could afford. The trial and appellate courts disagreed, dismissing all of the plaintiffs' claims under the Employee Retirement Income Security Act and all of the related state law claims. Of particular significance was that a case of such magnitude was dismissed on the first motion to dismiss, with prejudice, avoiding the significant costs of discovery that usually are incurred in such cases. Dentons also successfully opposed plaintiffs' Petition for Certiorari to the US Supreme Court.
- **Official Committee of Retirees for the City of Detroit:** Represented the Official Committee of Retirees in the largest Chapter 9 bankruptcy case in US history. The Committee represented the interests of approximately 23,500 public safety and general City retirees, as well as the interests of approximately 9,000 dependents, who were owed approximately US\$9 billion in pension and retirement health care benefits. With the assistance of Dentons, almost all pension benefits were protected and health care benefits payments continued. This representation was honored by *The M&A Advisor* with the 2014 Restructuring of the Year Award.
- **Publicly held retail company:** Successfully defended a case involving an ERISA group health insurance plan -- sponsored by the company -- and one of the company's employees. In the action, a hospital asserted a negligent misrepresentation claim against the company. On behalf of the company, we moved to dismiss the complaint on several grounds, including ERISA preemption. The court granted the company's motion to dismiss the complaint for failure to state a cause of action and the court denied the plaintiff's motion to reargue.